IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 34888 of 2015 (I)

PETITIONER :

SARAFUDDEEN, S/O.ABDU.M.,
MANCHERY HOUSE, THEKKUMPURAM,
KOORAD.P.O., MALAPPURAM DISTRICT.

BY ADVS.SRI.K.M.MOHAMED ABDURAHIMAN
SRI.C.T.BASHEER

RESPONDENT :

THE AUTHORIZED OFFICER,
THE NILAMBUR CO-OPERATIVE URBAN BANK NO. F 1043,
P.B.NO.10 HEAD OFFICE, NILAMBUR.P.O.,
MALAPPURAM DISTRICT-679 329.

BY SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.34888/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE DEMAND NOTICE DATED NIL.

P2 COPY OF THE DEMAND NOTICE DATED 08/01/2015 WITHOUT SCHEDULE

P3 COPY OF THE PETITION FILED UNDER SECTION 14 OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 34888 of 2015

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Dated this the 19th day of November, 2015

JUDGMENT

The petitioner, who had availed a loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P3 is the petition filed by the respondent bank under Section 14 of the SARFAESI Act, before the Chief Judicial Magistrate's Court. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer of the petitioner is to permit him to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I

dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the loan, is stated to be Rs.3,49,041/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,49,041/- together with accrued interest in six equal and successive monthly installments commencing from 10.12.2015, and continues to pay the regular installments as per the original loan schedule, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /19.11.15